

**To:** Dona, Amy (ENRD)[Amy.Dona@usdoj.gov]; Horwitz, Sylvia[Horwitz.Sylvia@epa.gov]; Houlihan, Damien[houlihan.damien@epa.gov]; Hoang, Yen[Hoang.Yen@epa.gov]; DeMeo, Sharon M.[DeMeo.Sharon@epa.gov]; Dierker, Carl[Dierker.Carl@epa.gov]; King, John Paul[king.john@epa.gov]; Nelson, Eric[nelson.ericp@epa.gov]; Webster, David[Webster.David@epa.gov]  
**From:** Stein, Mark  
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FYI – re 316b & ELGs

Daily News

## Power Plant Operators Brace For Release Of Key EPA Water Rules

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EPA is poised to release new Clean Water Act (CWA) standards for power plants later this week, to be followed this summer with a long-awaited cooling water intake rule, measures that will create a new round of requirements for electricity generators after the agency's suite of recent air rules, but which top industry officials are lobbying EPA to soften.

Top power industry officials met April 15 with EPA's Acting Administrator Robert Perciasepe over the agency's final cooling water intake rule, which is due for release by June 27.

The meeting was attended by Lew Hay, executive chairman of NextEra Energy, Inc and Chairman of the Edison Electric Institute (EEI), as well as Tom Farrell, president and CEO of Dominion, and they reiterated earlier calls for the administration to soften the rule's requirements that seek to limit impingement of fish and other aquatic species on cooling water structures.

The meeting on the cooling water rule follows [a series of meetings](#) industry officials held last month with administration officials over the proposed power plant effluent limitation guideline (ELG), which is slated for release April 19.

Among other things, they urged officials to avoid setting a zero-discharge standard as called for by environmentalists, keep in mind that decisions made in the ELG could effect EPA's pending coal ash disposal standard and avoid setting strict discharge limits because compliance costs may be at odds with CWA requirements.

EPA has said it is attempting to coordinate the disposal rule with the effluent rule, though that rule is not due for release until at least 2014.

Under the terms of a settlement agreement with environmentalists, EPA must release its proposed ELG on April 19, though the parties have agreed to several extensions since the originally slated release date of July 23, 2012. The rule is currently undergoing interagency review at the White House Office of Management & Budget, where it has been since Jan. 15.

The deadline for the final rule has not changed from May 2014, which was set in the original agreement.

One industry source says the current schedule for the ELG may create a problem for EPA as it prepares to collect and review comments on its proposal and prepare the final standard. "What is interesting is if you look at all the other ELGs that EPA has done – 13 months from proposal to final rule is what the schedule says right now -- that is by far the shortest time frame" for preparing an ELG that the agency has recently undertaken, the source says. "If the agency is going to stick to that schedule, they are going to be burning the midnight oil quite a bit."

The two rules are among several EPA measures that are gaining high-level attention from the utility sector, whose officials are shifting their concerns over the costs of EPA rules away from their long-running focus on the agency's air policies to pending

waste and water rules that they fear will impose massive costs and prompt some plant closures.

For example, Jeff Burleson of Southern Company told a National Association of Regulatory Utility Commissioners' (NARUC) event last November that the water rules, together with the pending coal ash standard, could significantly drive up costs for some utilities.

### **Technology Standards**

EPA's proposed ELG is intended to revise technology standards for coal- and other steam-fired generators, and were last updated in 1982. Environmentalists and others say the rules are needed because waste releases from the plants are getting more toxic as a result of treatment technologies needed to comply with increasingly stringent air rules, including the agency's maximum achievable control technology (MACT) air toxics rule for coal- and oil-fired power plants which is slated to take effect in 2015.

In informal presentations on the pending rule, EPA has indicated that it is considering setting strict new numeric discharge limits for key metals, including arsenic and selenium, and possible mandates to control releases from coal ash storage sites and flue gas desulfurization units -- also called scrubbers -- which have been added to many coal-fired power plants since the early 1990s to reduce sulfur dioxide and acid gases.

And environmentalists are calling on EPA to move ahead with a zero-discharge limit, which the agency has said may be an option in its proposed rule. According to a February 2012 document prepared for tribal consultation on the revised ELG, EPA said it was weighing technologies that would ensure no discharges of waste from the coal combustion process --in particular remains from the flue gas desulfurization process, bottom ash and fly ash, noting that the technology for dry ash transport is available.

But in their meetings with administration officials, industry groups have lobbied against the adoption of a zero-discharge standard, saying it would require installation of costly technology controls that would not remove enough toxic pollutants to meet the water law's requirement that the rule be cost effective.

Industry officials are similarly seeking to limit the stringency of the pending cooling water rule. Issued under CWA section 316(b), the rule will set new technology-based guidelines for cooling water intake structures at power plants and other industrial sources.

In its draft rule, EPA set a flexible, site-specific standard for reducing the entrainment of fish eggs and larvae into cooling water systems but had a strict nationwide standard for reducing the impingement of live adult fish on the structures.

Industry groups have largely praised the entrainment portion of the rule but have urged the agency to develop a similarly flexible standard for impingement.

A utility industry source says the industry representatives present at the April 15 meeting reiterated concerns EEI had first raised in 2011 comments on EPA's proposed rule. In their 2011 comments, EEI said it supports EPA's determination not to require use of closed-cycle cooling, including cooling towers, but called for the agency to provide permit writers with more discretion when setting standards to limit impingement of fish and other aquatic species in cooling systems and to "provide fuller recognition that existing measures already in place may in many cases sufficiently address both entrainment and impingement issues."

An EPA officials indicated recently that the agency will seek to include significant flexibilities in the rule, suggesting it will likely not call exclusively for closed loop cooling systems preferred by environmentalists. For example, "it may well be that there are many opportunities where the plant doesn't have to close because of the application of fine mesh screens," Julie Hewitt of EPA's Office of Water told NARUC in February.

Environmentalists, meanwhile, have urged EPA to hold to its nationwide standard for impingement. Some state regulators have praised the site-specific flexibility of the entrainment standard, but others have expressed concern about the resource requirements of developing such rules on a site-specific basis. -- *Jenny Hopkinson* ( [jhopkinson@iwpnews.com](mailto:jhopkinson@iwpnews.com) This e-mail address is being protected from spambots. You need JavaScript enabled to view it )